

BOARD OF APPEALS CASE NO. 4926

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BEFORE THE

APPLICANT: Ann Iwancio

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ZONING HEARING EXAMINER

REQUEST: Variance to construct a deck
and screened-in porch within the required
35 foot rear yard setback; 411 Blueberry
Court, Edgewood

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 5/5/99 & 5/12/99

HEARING DATE: June 9, 1999

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Record: 5/7/99 & 5/14/99

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Ann Iwancio, appeared before the Hearing Examiner requesting a variance to Section 267-36(B), Table IV, of the Harford County Code, to construct a deck and screened porch within the required 35 foot rear yard setback in an R3, Urban Residential District.

The subject parcel is located at 411 Blueberry Court in the First Election District. The parcel is identified as Parcel No. 307, in Grid 2-D, on Tax Map 66. The parcel contains .171 acres, more or less, all of which is zoned R3.

Mr. John Iwancio appeared and testified that he is requesting a variance to construct a deck with dimensions of 14 feet by 36 feet. The Applicant said in order to construct the deck he needs a 4 foot area variance. The Applicant said the subject property is unique because there is a sediment pond and Natural Resource District to the rear of the parcel and the parcel is incumbered by a 7.5 foot drainage and utility easement along both sides and a 15 foot drainage and utility easement across the rear of the parcel. The witness said he did not feel the variance would be substantially detrimental to adjacent properties or materially impair the purpose of the Code because there are no neighbors to the rear on the right side of his parcel. The other adjoining property owner was present and testified he did not feel the variance would be detrimental to his property.

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The Staff Report of the Department of Planning and Zoning recommends conditional approval and provides:

“The requested variance is for a reduction of less than 20% of the setback and the impacts on the adjacent properties should be minimal. It is the opinion of the Department of Planning and Zoning that the Applicant can adequately justify the request pursuant to Section 267-11 of the Harford County Code.”

CONCLUSION:

The Applicant is requesting a variance to Section 267-36(B), Table IV, of the Harford County Code, to construct a deck and screened-in porch within the required 35 foot rear yard setback. The Applicant is proposing a 22 foot setback.

The Code permits open decks to encroach into the rear yard setback up to 25% of the requirement. Since the rear yard setback is 35 feet, the rear yard setback would be reduced to 26.25 feet. The deck, as proposed, is 14 feet deep and would reduce the rear yard setback to 22 feet.

The uncontradicted testimony of the Applicant is that the subject parcel is unique because there is a sediment control pond to the rear of the parcel and both sides and the rear of the property are encumbered by a utility and drainage easement. The Applicant also said he did not feel the variance would be substantially detrimental to adjacent properties or materially impair the purpose of the Code because none of his neighbors appeared to testify in opposition to the request because the parcel to the rear is identified as a Natural Resource District, and the parcel to the right is vacant. The Applicant's neighbor on the left side appeared and testified he did not feel the variance would impact his property.

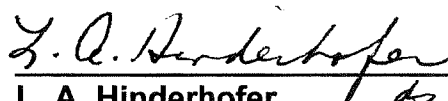
It is the finding of the Hearing Examiner that the subject property is unique for the reasons stated by the Applicant in his testimony and, further, that approval of the variance will not be substantially detrimental to adjacent properties or materially impair the purpose of the Code.

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Therefore, it is the recommendation of the Hearing Examiner that the requested variance to reduce the rear yard setback to 22 feet be approved, subject to the following conditions:

1. The Applicant obtain all necessary permits and inspections.
2. The screened porch shall not be enclosed for year-round use.

Date JULY 2, 1999



L. A. Hinderhofer
Zoning Hearing Examiner